

## **REMARKS**

Claims 19, 30-47 and 58-69 have been canceled without prejudice. Claims 1, 21, and 48 have been amended without prejudice. Claims 1-18, 20-29 and 48-57 remain pending in the application.

Claims 21, 22, 24 and 26 have been rejected under 35 U.S.C. 102(b) as being anticipated by LeMole (US Patent 5,839,369). In response the applicants respectfully traverse the rejection. LeMole'369 discloses a sleeve 28 (see Figures 12D-12F) adapted to be positioned within a graft (see column 5, lines 65-67). A punch 30 and an inflatable block 302 arrangement may be inserted into the lumen of sleeve 28. Block 302 includes a cutting edge or blade 306 (see Figures 12D-12F, column 7, lines 58 to column 8, lines 35). By contrast, claims 21, 22, 24 and 26 include the limitation of a tool body coupled to the cutting mechanism. To make the distinction between the applicants' invention and LeMole'369 more clearly in the interest of advancing the application to allowance, the applicants have amended claim 21 without prejudice to recite that the tool body comprises a distal end having a distal opening and a proximal end having a proximal opening, a cutting mechanism attached to the distal end and an inner lumen extending between the distal opening and the proximal opening for delivery of a seal through the tool body. Support for this amendment can be found in the application. Since, LeMole'369 does not disclose the limitations of independent claim 21, the rejection of claims 21 and its dependent claims 22, 24 and 26 should be withdrawn.

Claims 1-4, 9 and 11-14 have been rejected under 35 U.S.C. 103(a) as being unpatentable over by LeMole (US Patent 5,839,369) in view of Burbank, et al. (US Patent 6,689,071). In response the applicants respectfully traverse the rejection. LeMole'369 discloses a sleeve 28 (see Figures 12D-12F) adapted to be positioned within a graft (see column 5, lines 65-67). A punch 30 and an inflatable block 302 arrangement may be inserted into the lumen of sleeve 28. Block 302 includes a cutting edge or blade 306 (see Figures 12D-12F, column 7, lines 58 to column 8, lines 35). Burbank'071 discloses an electrosurgical biopsy device. Notwithstanding the inapplicability of the combination of

LeMole'369 and Burbank'071 to the applicants' claimed invention, Burbank'071 does not cure the deficiencies of LeMole'369. To make the distinction between the applicants' invention and the references more clearly in the interest of advancing the application to allowance, the applicants have amended independent claim 1 without prejudice to recite that the tool body comprises a distal end having a distal opening and a proximal end having a proximal opening, a cutting mechanism attached to the distal end and an inner lumen extending between the distal opening and the proximal opening for delivery of a seal through the tool body. Support for this amendment can be found in the application. Neither LeMole'369 nor Burbank'071, either alone or in combination, teaches or suggests the limitations of claim 1, therefore the rejection of independent claim 1 and its dependent claims 4, 9 and 11-14 should be withdrawn.

Claims 15-17 have been rejected under 35 U.S.C. 103(a) as being unpatentable over by LeMole (US Patent 5,839,369) and Burbank, et al. (US Patent 6,689,071) as applied to claim 1, in further view of Blatter (US Patent 6,248,117). In response the applicants respectfully traverse the rejection. LeMole'369 discloses a sleeve 28 (see Figures 12D-12F) adapted to be positioned within a graft (see column 5, lines 65-67). A punch 30 and an inflatable block 302 arrangement may be inserted into the lumen of sleeve 28. Block 302 includes a cutting edge or blade 306 (see Figures 12D-12F, column 7, lines 58 to column 8, lines 35). Burbank'071 discloses an electrosurgical biopsy device. Blatter'117 discloses an intraluminally directed anvil apparatus comprising an anvil 160 and a wire 150 (see column 21, lines 44-46). Notwithstanding the inapplicability of the combination of LeMole'369, Burbank'071 and Blatter'117 to the applicants' claimed invention, Blatter'117 does not cure the deficiencies of LeMole'369 and Burbank'071. Neither LeMole'369, Burbank'071, nor Blatter'117, either alone or in combination, teaches or suggests a tool body comprising a distal end having a distal opening and a proximal end having a proximal opening, a cutting mechanism attached to the distal end and an inner lumen extending between the distal opening and the proximal opening for delivery of a seal through the tool body as required in amended claim 1 and its dependent claims 15-17. Furthermore, neither LeMole'369, Burbank'071, nor Blatter'117, either alone or in combination, teaches or suggests a seal comprising one or more openings for

delivering one or more fluids as required in claim 15. Furthermore, neither LeMole'369, Burbank'071, nor Blatter'117, either alone or in combination, teaches or suggests a seal comprising one or more openings for delivering one or more agents as required in claim 16. Furthermore, neither LeMole'369, Burbank'071, nor Blatter'117, either alone or in combination, teaches or suggests a seal comprising one or more suture guides as required in claim 17. Therefore, the rejection of dependent claims 15-17 should be withdrawn.

Claims 10, 18, and 20 have been rejected under 35 U.S.C. 103(a) as being unpatentable over by LeMole (US Patent 5,839,369) and Burbank, et al. (US Patent 6,689,071) as applied to claim 1, in further view of Fortune, et al. (US Patent 2004/0215231). In response the applicants respectfully traverse the rejection. LeMole'369 discloses a sleeve 28 (see Figures 12D-12F) adapted to be positioned within a graft (see column 5, lines 65-67). A punch 30 and an inflatable block 302 arrangement may be inserted into the lumen of sleeve 28. Block 302 includes a cutting edge or blade 306 (see Figures 12D-12F, column 7, lines 58 to column 8, lines 35). Burbank'071 discloses an electrosurgical biopsy device. Fortune'231 discloses devices for closure of a surgical puncture delivered via a hollow tip applicator (see Fig. 1). Notwithstanding the inapplicability of the combination of LeMole'369, Burbank'071 and Fortune'231 to the applicants' claimed invention, Fortune'231 does not cure the deficiencies of LeMole'369 and Burbank'071. Neither LeMole'369, Burbank'071 nor Fortune'231, either alone or in combination, teaches or suggests a tool body comprising a distal end having a distal opening and a proximal end having a proximal opening, a cutting mechanism attached to the distal end and an inner lumen extending between the distal opening and the proximal opening for delivery of a seal through the tool body as required in amended claim 1 and its dependent claims 10, 18, and 20. Therefore, the rejection of dependent claims 10, 18, and 20 should be withdrawn.

Claim 19 has been rejected under 35 U.S.C. 103(a) as being unpatentable over by LeMole (US Patent 5,839,369) and Burbank, et al. (US Patent 6,689,071) as applied to claim 1, in further view of Borst, et al. (US Patent 6,359,015). In response the applicants have canceled claim 19 without prejudice.

Claims 23 and 25 have been rejected under 35 U.S.C. 103(a) as being unpatentable over by LeMole (US Patent 5,839,369), as applied to claim 21, in further view of Fortune, et al. (US Patent 2004/0215231). In response the applicants respectfully traverse the rejection. LeMole'369 discloses a sleeve 28 (see Figures 12D-12F) adapted to be positioned within a graft (see column 5, lines 65-67). A punch 30 and an inflatable block 302 arrangement may be inserted into the lumen of sleeve 28. Block 302 includes a cutting edge or blade 306 (see Figures 12D-12F, column 7, lines 58 to column 8, lines 35). Fortune'231 discloses devices for closure of a surgical puncture delivered via a hollow tip applicator (see Fig. 1). Fortune'231 does not cure the deficiencies of LeMole'369. Neither LeMole'369 nor Fortune'231, either alone or in combination, teaches or suggests a tool body comprising a distal end having a distal opening and a proximal end having a proximal opening, a cutting mechanism attached to the distal end and an inner lumen extending between the distal opening and the proximal opening for delivery of a seal through the tool body as required in amended claim 1 and its dependent claims 23 and 25. Therefore, the rejection of dependent claims 23 and 25 should be withdrawn.

Claims 27-29 have been rejected under 35 U.S.C. 103(a) as being unpatentable over by LeMole (US Patent 5,839,369), as applied to claim 21, in further view of Blatter (US Patent 6,248,117). In response the applicants respectfully traverse the rejection. LeMole'369 discloses a sleeve 28 (see Figures 12D-12F) adapted to be positioned within a graft (see column 5, lines 65-67). A punch 30 and an inflatable block 302 arrangement may be inserted into the lumen of sleeve 28. Block 302 includes a cutting edge or blade 306 (see Figures 12D-12F, column 7, lines 58 to column 8, lines 35). Blatter'117 discloses an intraluminally directed anvil apparatus comprising an anvil 160 and a wire 150 (see column 21, lines 44-46). Blatter'117 does not cure the deficiencies of LeMole'369. Neither LeMole'369 nor Blatter'117, either alone or in combination, teaches or suggests a tool body comprising a distal end having a distal opening and a proximal end having a proximal opening, a cutting mechanism attached to the distal end and an inner lumen extending between the distal opening and the proximal opening for

delivery of a seal through the tool body as required in amended claim 1 and its dependent claims 27-29. Furthermore, neither LeMole'369 nor Blatter'117, either alone or in combination, teaches or suggests a seal comprising one or more openings for delivering one or more fluids as required in claim 27. Furthermore, neither LeMole'369 nor Blatter'117, either alone or in combination, teaches or suggests a seal comprising one or more openings for delivering one or more agents as required in claim 28. Furthermore, neither LeMole'369 nor Blatter'117, either alone or in combination, teaches or suggests a seal comprising one or more suture guides as required in claim 29. Therefore, the rejection of dependent claims 27-29 should be withdrawn.

Claim 30 has been rejected under 35 U.S.C. 103(a) as being unpatentable over by LeMole (US Patent 5,839,369), as applied to claim 21, in further view of Borst, et al. (US Patent 6,359,015). In response the applicants have canceled claim 30 without prejudice.

Claims 48-57 have been rejected under 35 U.S.C. 103(a) as being unpatentable over by LeMole (US Patent 5,839,369) in view of Fortune, et al. (US Patent 2004/0215231). In response the applicants respectfully traverse the rejection. LeMole'369 discloses a sleeve 28 (see Figures 12D-12F) adapted to be positioned within a graft (see column 5, lines 65-67). A punch 30 and an inflatable block 302 arrangement may be inserted into the lumen of sleeve 28. Block 302 includes a cutting edge or blade 306 (see Figures 12D-12F, column 7, lines 58 to column 8, lines 35). Fortune'231 discloses devices for closure of a surgical puncture delivered via a hollow tip applicator (see Fig. 1). By contrast, claims 48-57 include the limitation of a tool body coupled to the cutting mechanism. To make the distinction between the applicants' invention and the references more clearly in the interest of advancing the application to allowance, the applicants have amended claim 48 without prejudice to recite that the tool body comprises a distal end having a distal opening and a proximal end having a proximal opening, a cutting mechanism attached to the distal end and an inner lumen extending between the distal opening and the proximal opening for delivery of a seal through the tool body. Support for this amendment can be found in the application. Since, neither LeMole'369 nor Fortune'231, either alone or in

combination, teach, suggest or disclose the limitations of independent claim 48, the rejection of claim 48 and its dependent claims 49-57 should be withdrawn.

Support for this amendment is clearly found in the application as originally filed.  
No new matter is presented.


If the Examiner comes to believe that a telephone conversation may be useful in addressing any remaining open issues in this case, the Examiner is urged to contact the undersigned agent at 763-391-9867.

A request for a two month extension of time accompanies this amendment. Please charge the appropriate fee for the extension of time to Deposit Account No. 13-2546.

Please charge any additional required fees or credit any overpayment to Deposit Account No. 13-2546.

Examination and reconsideration of this application are respectfully requested.

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